IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 2450 of 2005

Between:

T.K.Swamy, s/o Viswanatha Rao,
APSRTC, Wanaparthy Bus Depot, Mahabubnagar District.

... PETITIONER

AND

The Depot Manager, APSRTC, Wanaparthy Bus Depot, Mahabubnagar District.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring that the action of the respondent in imposing the punishment of with holding of petitioners annual increment for a period of one which shall have effect on petitioner's future increment as illegal, arbitrary, unjust and unreasonable and violative of principles of natural justice and against the judgments of this Hon'ble Court and as well as apex court and consequently set aside the final order in Proc.No.02/62(76)/WNP dated 23-12-1994 of the respondent herein and consequently direct the respondent to pay the with holded increments.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondent: MR.P.VINAYAKA SWAMY

The Court made the following:

ORDER:

Alleging that petitioner committed certain irregularities, a chargesheet was issued to him on 07-10-1994 calling for his explanation. Without conducting any enquiry, the Disciplinary Authority imposed a penalty of deferment of one annual increment which shall have the effect of postponement of future increments, by its proceedings dated 23-12-1994. Questioning the same, the present writ petition is filed.

2. Learned counsel appearing for the writ petitioner contended that imposing a major penalty without conducting any enquiry is illegal and since the incident in question has taken place long back, instead of remitting the matter to the Disciplinary Authority, he prays to modify the impugned order.

3. For certain irregularities, a charge sheet was issued to the petitioner and an explanation was called for. Without considering the explanation offered by the petitioner and without conducting any enquiry, a penalty of deferment of one annual increment, which shall have the effect of postponement of future increments, was imposed on him. There cannot be any dispute that imposing the penalty of deferment of one annual increment having the effect of postponement of future increments, is a major penalty. But such a major penalty cannot be imposed without conducting any departmental enquiry. Though it is matter to be remitted back to the Disciplinary Authority for appropriate decision, as the incident in question took place long back, and considering the facts and circumstances of the case, minor penalty can be imposed on the petitioner.

In the result, the writ petition is disposed of modifying the penalty passed by the Disciplinary Authority to that of deferment of one annual increment without cumulative effect. In the circumstances, no costs. By virtue of modification, petitioner is not entitled for any monetary benefits.

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K.C. BHANU, J

Dated: 14-02-2005

LSK/PRV

ASSISTANT REGISTRAR

TRUE COPY//

SECTION OFFICER.

To

1. The Depot Manager, APSRTC, Wanaparthy Bus Depot, Mahabubnagar District.

2. Two C.D. copies.